**THE HON'BLE SRI JUSTICE N.V. RAMANA**

**Writ Petition No. 7707 of 2006**

**Dated: 09.08.2006**

Between:

G. Srinivasulu, S/o G. Chandrasekhar, Driver, E.No.425095,
R/o 16th Ward, H.No.112, Z.B. Street, Adoni, Kurnool Dislrict.

**.... PETITIONER**

AND

The Vice Chairman and Managing Director, A.P. State Road Transport Corporation, Musheerabad, Hyderabad and others.

**.....RESPONDENTS**

**THE HON'BLE SRI JUSTICE N.V. RAMANA**

**Writ Petition No. 7707 of 2006**

**Order**:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

The petitioner states that while he was working as driver in the respondents-Corporation, as he was declared as unfit to hold the said post vide order dated 29.01.2006 and was placed on leave with effect from 29.01.2006 on the ground of defective vision and not provided any alternative employment as per the provisions of Section 47 of the Persons with Disabilities (equal opportunity, protection of rights, full participation) Act, 1995 (for short 'the Act'), he made a representation dated 28.03.2006 requesting the respondents-Corporation to provide alternative employment, but the 3rd respondent, namely the Depot Manager, instead of considering his representation, vide letter dated 10.04.2006, directed him to give his willingness in writing for retirement on medical grounds within seven days from the date of receipt of said letter. Hence, he filed the present writ petition.

Though the writ petition was admitted in the month of April 2006, the respondents filed their counter affidavit today, admitting that the petitioner was declared as medically unfit to hold the post of driver. But, the counter is silent about the consideration of the alternative employment to the petitioner. However, it is stated in the counter affidavit that the petitioner has remedy of appearing before the Medical Board consisting of three doctors and without availing that opportunity he approached this Court. A perusal of the material on record, coupled with the counter affidavit filed by the respondents-Corporation, it is clear that during periodic medical examination on 29.01.2006, the Senior

Medical Officer, APSRTC Dispensary, Kurnool, declared the petitioner as medically unfit to hold the post of Driver due to defective vision, and against the said decision, the petitioner filed an application for re-medical examination and in the re-examination also the Senior Medical Officer, Taranaka Hospital, Hyderabad, on 26.03.2006, declared the petitioner as medically unfit to hold the post of driver. Thereafter, the petitioner filed a representation dated 28.03.2006 requesting the respondents-Corporation to provide alternative employment. The contention of the respondents-Corporation is that the petitioner has remedy of appearing before the Medical Board consisting of three doctors, but without availing that opportunity he approached this Court. When once the respondents-Corporation, after two levels of medical examination, declared the petitioner as medically unfit to hold the post of driver, there is no meaning in again asking the petitioner to appear before another Medical Board consisting of three doctors, without considering his representation for alternative employment.

Further, a Division Bench of this Court in ***N. Siva Kumar v. APSRTC, Musheerabad, Hyderabad***[1], considered similar issue and directed the authorities to consider the case of the employee in the light of the provisions of the Act for alternative employment. The relevant portion reads as under;

> "Having regard to the fact that a right has been conferred upon the appellant herein under a statute, although the question raised herein has not been raised before the learned single Judge, we, in modification of the order passed by the learned single Judge, direct the appellant herein to file a representation, if not already filed, before the appropriate authority seeking the relief prayed for in this appeal, and on receipt of such a representation, the appropriate authority may consider the case of the appellant in the light of the aforementioned provisions and the decisions referred to hereinbefore, and pass an appropriate order at an early date, preferably within a period of four (4) weeks from the date of communication of this order."

In that view of the matter, I deem it appropriate to dispose of the writ petition with the following direction.

The respondents-Corporation is directed to consider the representation, dated 28.03.2006, of the petitioner for providing alternative employment in lieu of his medical unfitness in the light of the provisions under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and pass appropriate orders thereon, expeditiously.

The writ petition is accordingly disposed of. No costs.

**N.V. RAMANA, J.**

Date: 09.08.2006
Nsr/Tvk

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1 2001 (3) ALD 166 (DB)